

REMARKS

Interview Summary

Applicant wishes to thank the Examiner for considering the issues raised in the December 20 Office Action during the interview on February 28. During the interview, the Examiner and Applicants' attorney discussed the cited prior art and claim amendments that would distinguish the prior art. The claim amendments discussed in the interview are reflected above. The remainder of the substance of the interview is further reflected below. Applicants believe the application is now in a condition for allowance and appreciates the Examiner's due consideration of the amendments above and the following comments.

Claim Rejections

The Examiner has rejected claims 48-54, 57, 60, 62-68, 71 and 74 as being anticipated under 35 U.S.C. § 102(b) by Kocur (U.S. Patent No. 6,350,277). The Examiner has also rejected claims 55-56, 69 and 70 as being unpatentable under 35 U.S.C. § 103(a) over Kocur. The Examiner has also rejected claims 48, 58-59, 61, 72-73 and 75-76 as being unpatentable under 35 U.S.C. § 103(a) over Kocur in view of Camrud et al. (U.S. Patent No. 6,258,117).

Applicants have carefully considered the Examiner's comments. In order to expedite prosecution of Applicants' claims, Applicants have amended claims 48 and 50 in order to further distinguish Kocur and Camrud. Applicants respectfully submit that the prior art of record does not disclose all of the limitations of Applicants' claims as presented. Moreover, there is no apparent reason to modify or combine the prior art to achieve Applicants' claimed inventions.

As explained previously, the biodegradable members in Kocur that the Examiner relies upon are retaining segments. (Col. 8, line 2). Kocur explains that the retaining segments maintain the stent framework in a less than fully expanded configuration until the retaining segments fail. (Col. 3, lines 24-26). As described in the background section of Kocur, the purpose of the retaining segments is to provide a stent that provides some of the characteristics of a balloon expandable stent and some of the properties of a self-expanding stent after the retaining segments fail. (Col. 1, lines 41-

52). Therefore, the principle of operation of Kocur is different than the claimed invention. MPEP 2143.01 (VI. The Proposed Modification Cannot Change the Principle of Operation of a Reference). In the claimed invention, the biodegradable connector degrades after the stent is expanded “so that said two ring structures become substantially disjoined.” However, the purpose of the biodegradable retaining segments in Kocur is completely different. In Kocur the retaining segments are used to restrain expansion of the stent. In the claimed invention, the biodegradable connectors have no effect on the expansion of the stent. Instead, the claimed biodegradable connectors are used to disjoin separate ring structures over time. However, in Kocur the stent is a unitary structure that is not intended to be disjoined into separate structures. Thus, the retaining segments of Kocur are completely unrelated to the claimed connector member.

Applicants’ amendments to the claims further clarifies that the scope of the claims does not cover the structure disclosed in Kocur. At the suggestion of the Examiner, claims 48 and 50 have been further amended to clarify that the ring structures extend completely around the circumference of the stent. Thus, the claims do not cover a structure like Kocur in which a biodegradable member merely extends across the space between two interconnected struts of a unitary stent structure. Accordingly, because Kocur does not disclose all of the limitations of Applicants’ claims, Kocur cannot anticipate Applicants’ claims as presented. Therefore, the Examiner’s § 102 rejection may now be withdrawn.

Turning to the Examiner’s § 103 rejection based on Kocur and Camrud, Applicants respectfully submit that Kocur and Camrud do not disclose all of the limitations of Applicants’ claims even if Kocur and Camrud are combined as proposed by the Examiner. As explained above, Kocur does not disclose two separate ring structures that are connected by a biodegradable connector that degrades when the stent is in an expanded state so that the two ring structures become substantially disjoined. However, the Examiner argues that Figures 5a and 5b of Camrud satisfies the remaining limitations that are missing from Kocur.

Applicants respectfully remind the Examiner that Applicants previously amended the claims to distinguish Camrud by requiring that the connector member has a first end

that is joined to one ring structure and a second end that is joined to an adjacent ring structure. The connector member extends across a space separating the adjacent ring structures. The connector member is further required to be biodegradable along an entire length thereof between the first end and the second end. Applicants have now amended claim 48 at the Examiner's suggestion to further require that the curved connector member is curved along a direction of the longitudinal axis of the stent. Applicants have also further amended claim 50 at the Examiner's suggestion to further require that connector member is longer in a direction of the longitudinal axis of the stent than in the circumferential direction around the stent.

Contrary to the Examiner's argument, Camrud does not disclose a structure in which a biodegradable connector extends across a space between two adjacent ring structures and is attached at opposite ends to the adjacent ring structures. In particular, the connecting members in Camrud are "rod-like, or tab-like elements that bridge a gap between adjacent stent sections 12, 14, 16, 18, 20." (Col. 8, lines 47-50). "Each connecting member 80, 82, 84, 86 forms two halves, however, that can be held together with a material 90 that can be made from biodegradable or physically breakable material." (Col. 8, lines 54-57). The purpose of the connecting members is to "provide extensions that counteract tumbling forces." (Col. 8, lines 33-43). Thus, Camrud does not disclose a biodegradable connector that extends across a space between two adjacent ring structures. Instead, the connecting members 80, 82, 84, 86 in Camrud are non-biodegradable, which is the opposite of the claimed biodegradable connectors.

Moreover, Applicants have further amended the claims to distinguish the biodegradable material 90 disclosed in Camrud, which is merely used to hold Camrud's connecting members together. (Col. 8, lines 54-57). As now claimed in claim 48, the biodegradable connector is required to be curved "along a direction of a longitudinal axis of the stent." The biodegradable material 90 disclosed in Camrud does not satisfy this limitation because the biodegradable material 90 has no curvature with respect to the longitudinal axis of the stent. During the interview with the Examiner, the Examiner pointed out that the biodegradable material 90 is curved around the circumference of the stent. However, Applicants' claim amendment clarifies that this is not the direction in which the claimed connector member is curved. Further, as now claimed in claim 50,

the biodegradable connector is required to be “longer in a direction of a longitudinal axis of the stent than in a circumferential direction around the stent.” During the interview with the Examiner, the Examiner stated that the term “elongate” does not specifically define the structure of the biodegradable connector. While Applicants believe the term “elongate” is sufficiently clear, Applicants have now expressly defined that the biodegradable connector is longitudinally longer than it is wider around the circumference of the stent. Camrud does not disclose this limitation because the biodegradable material 90 disclosed in Camrud extends farther around the circumference of the stent than it extends along the longitudinal axis of the stent. Accordingly, even if the Examiner combines Kocur with Camrud, the proposed combination does not disclose all of Applicants’ claim limitations. Therefore, the Examiner’s § 103 rejection may now be withdrawn.

Because the prior art does not disclose all of the claim limitations of claims 48 and 50 as now presented, independent claims 48 and 50 are allowable. In addition to the limitations that are missing from Kocur and Camrud, the prior art of record also fails to disclose the additional limitations, and an apparent reason to combine the required limitations, of dependent claims 49 and 51-76. Because each of these claims incorporate all of the limitations of allowable claims 48 and 50, claims 49 and 51-76 are also allowable. Therefore, any further arguments that could be made at this time in support of the additional limitations of Applicants’ dependent claims would be superfluous and is unnecessary. *In re Fine*, 837 F.2d 1071, 1076 (Fed. Cir. 1988); *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1555 (Fed. Cir. 1983).

Conclusion

In response to the Examiner’s comments, Applicants have amended claims 48 and 50 at the Examiner’s suggestion. It is respectfully submitted that none of the prior art of record discloses all of the limitations of the claims as now presented. In particular, the prior art does not disclose a biodegradable connector member that extends across the space between adjacent ring structures, where the entire length of the connector member is biodegradable. Moreover, there is no apparent reason to combine or modify the prior art to achieve Applicants’ claimed inventions. Therefore, Applicants’ claims are allowable.

Accordingly, Applicants request reconsideration and allowance of the application.

Respectfully submitted,

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